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E-FILED - 1/21/09

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-00842 RMW
)	
Plaintiff,)	STIPULATION AND []
v.)	ORDER RESCHEDULING THE
)	JANUARY 12, 2009 STATUS HEARING
DAVID CABALLERO-MENDEZ,)	AND EXCLUDING TIME FROM THE
)	SPEEDY TRIAL ACT CALCULATION
Defendant.)	(18 U.S.C. §§ 3161(h)(8)(A), (B)(iv))

The parties are currently scheduled to appear before this Court on January 12, 2009 at 9:00 a.m. for a status hearing. On December 22, 2008 the Court granted defendant's Motion to Determine Mental Competency. As of the date of this stipulation, the Bureau of Prisons has not completed its examination of the defendant or submitted its report to the Court. Therefore, in the interests of judicial economy, the government and defense request a continuance of the January 12, 2009 hearing to March 2, at 9:00 a.m. (or other date convenient for the Court) and an exclusion of time under the Speedy Trial Act.

The parties stipulate that the time between January 12, 2009 and the new hearing date is excluded under the Speedy Trial Act, 18 U.S.C. § 3161, and agree that the failure to grant the requested continuance would unreasonably deny the defendant reasonable time necessary for

1 effective preparation. The parties further agree that the ends of justice served by granting the
2 requested continuance outweigh the best interests of the public and the defendant in a speedy trial
3 and in the prompt disposition of criminal cases. 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).
4

5 DATED: January 12, 2009

JOSEPH P. RUSSONIELLO
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8 /S/
9 GRANT P. FONDO
Assistant United States Attorney

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11 MANUEL A. ARAUJO
Assistant Federal Public Defender
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ORDER

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the January 12, 2009 status hearing in the above-entitled matter be rescheduled to March 2, 2009 at 9:00 a.m. and that the time from January 12, 2009 through March 2, 2009 is excluded under the Speedy Trial Act, 18 U.S.C. § 3161. The court finds that the ends of justice are served by taking such action and outweigh the best interests of the public and defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). The failure to grant such a continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. The court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

IT IS SO ORDERED.

DATED: 1/21/09


RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE